

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANTONELLO BOLDRINI,

Plaintiff,

v.

FREDERICK J. AMMERMAN, *et al.*,

Defendants.

CIVIL ACTION NO. 3:13-CV-2896

(JUDGE CAPUTO)

(MAGISTRATE JUDGE BLEWITT)

**MEMORANDUM ORDER**

Presently before the Court is Magistrate Judge Thomas M. Blewitt's Report and Recommendation ("R & R") (Doc. 12) that Plaintiff Antonello Boldrini's Motion for Extension of Time to file an amended complaint (Doc. 10) be granted, but that the Complaint (Doc. 11), filed on March 31, 2014, be dismissed with prejudice, and the case be closed. Because Boldrini's objections to the R & R (Doc. 19) were not timely, the R & R was reviewed for plain error and manifest injustice, and upon review, the R & R will be adopted.

Additionally before the Court is Plaintiff's Motion for Leave to Proceed *in forma pauperis* before the Court of Appeals for the Third Circuit, filed on October 10, 2014 in this Court, and also filed in the Third Circuit Court of Appeals (Doc. 28).<sup>1</sup> This Motion will be denied as moot in view of the Third Circuit Court of Appeals' October 21, 2014 grant of Plaintiff's *in forma pauperis* Motion (3d Cir. Dkt. No. 14-3996, Doc. 1).

**I. Background**

Plaintiff Boldrini's objections to the R & R were initially due on April 28, 2014. On that date, Boldrini filed a Motion for Extension of Time to File Objections to the R & R (Doc. 14), which I granted on May 1, and set a new deadline of July 3, 2014 (Doc. 16). In my order granting the extension, I stated that Plaintiff "will not be granted any further extensions beyond that date." (Doc. 16.) On July 3, Plaintiff filed a second Motion for Extension of Time to File Objections (Doc. 17), which I denied on July 7, noting that in my previous order

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<sup>1</sup> Plaintiff filed a "Notice of Appeal to United State Court of Appeals for the Third Circuit" on September 22, 2014 (Doc. 28).

I specifically stated that Plaintiff would not be granted further extensions (Doc. 18).

On July 14, 2014, Plaintiff filed his Objection to the R & R (Doc. 14), eleven (11) days after the July 3 deadline, and seven (7) days after my order denying him a second extension of time. On July 28, Plaintiff filed a “Motion for Extension of Time to File Brief in Support to Motion for Objection to Report & Recommendation” (Doc. 20). I denied this on July 30, noting that my prior order had stated that Boldrini would be granted no more extensions, and also noting that his objection to the R & R had been filed late (Doc. 21). On August 15, 2014, Boldrini filed a “Motion Nunc Pro Tunc for Leave to File Objection to Report & Recommendation” (Doc. 22), which I denied on August 21 (Doc. 23).

## **II. Legal Standard**

Where objections to a magistrate judge's R & R are filed, the Court must conduct a *de novo* review of the contested portions. *Sample v. Diecks*, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989) (citing 28 U.S.C. § 636(b)(1)(c)). However, this *only* applies to the extent that a party's objections are both *timely* and specific. *Goney v. Clark*, 749 F.2d 5, 6-7 (3d Cir. 1984) (emphasis added). At the least, the court should review uncontested portions for clear error or manifest injustice. *See, e.g., Cruz v. Chater*, 990 F. Supp. 375, 376-77 (M.D. Pa. 1998).

## **III. Discussion**

Plaintiff Boldrini filed his Objection to the R & R (Doc. 19) eleven (11) days after the deadline to file, July 3, 2014. This deadline was set when I granted his first Motion for Extension of Time to Object to the R & R. (Doc. 16.) In that order, I made clear that I would not grant another extension of time to object to the R & R. (*Id.*) When Boldrini filed a second Motion for Extension of Time (Doc. 17) on July 3, the date objections were due, I promptly denied it. (Doc. 18.) Thus, his Objection to the R & R was not timely. The Court must conduct a *de novo* review of a magistrate judge's R & R only when a party timely objects. *Goney*, 749 F.2d 5, 6-7. Because the R & R was not objected to in a timely manner, I review the R & R for plain error or manifest injustice. Upon review of Magistrate Judge Blewitt's R & R for plain error or manifest injustice, I adopt the R & R.

**ACCORDINGLY**, this 6th day of November, 2014, upon review of the Report and Recommendation of Magistrate Judge Thomas M. Blewitt (Doc. 12), **IT IS HEREBY ORDERED** that:

- (1) Magistrate Judge Blewitt's Report and Recommendation (Doc.12) is **ADOPTED**.
- (2) The Motion for Extension of Time to Amend Complaint (Doc. 10) is **GRANTED**.
- (3) The Amended Complaint (Doc. 11) is **DISMISSED with prejudice**.
- (4) The Motion for Leave to Appeal *in forma pauperis* (Doc. 28) is **DENIED** as moot.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge